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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re C.S., a Person Coming Under the
Juvenile Court Law.

H041909
(Monterey County
Super. Ct. No. J46865)

MONTEREY COUNTY DEPARTMENT
OF SOCIAL & EMPLOYMENT
SERVICES,

Plaintiff and Respondent,

v.

I.R.,

Defendant and Appellant.

I.R., the mother of C.S., who was declared a dependent child of the court, appeals from the Welfare and Institutions Code section 366.26¹ orders, issued on December 16, 2014, that terminated her parental rights and declared adoption to be the permanent plan for C.S. On appeal, mother seeks to collaterally attack the June 17, 2014 order setting the section 366.26 hearing on the ground that the evidence was insufficient to support the court's finding that reasonable reunification services had been provided.² Mother asserts that the Monterey County Department of Social and Employment Services (Department)

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

² Ordinarily, "[a]n appeal from the most recent order in a dependency matter may not challenge earlier orders for which the time for filing an appeal has passed. [Citation.]" (See *Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1018.)

failed to provide reasonable reunification services designed to address C.S.'s issues concerning visitation with her and facilitate visitation.

We conclude that mother's claim is not cognizable in this appeal and, in any event, we would find it meritless if the issue were properly before us. Accordingly, we will affirm.

I

Procedural History

On November 05, 2012, a juvenile dependency petition was filed on behalf of C.S. under section 300, subdivision (b) (failure to protect). The jurisdiction/disposition report indicated that C.S. was then three years old. In support of the petition's allegations, the report stated the following facts.

At the time of the petition, mother had three children: M.F. who was six years old, C.S. who was three years old, and Z.S. who was 23 months old. They were placed in protective custody on November 1, 2012. She also had two older children who were removed through dependency proceedings and ultimately adopted by others. The Department had received a series of referrals regarding mother and the three younger children that concerned substance abuse by mother and C.S. and Z.S.'s father³ (father) and domestic violence between the couple.

"On February 10, 2012, the Salinas Police responded to the mother's home for a domestic disturbance. [Father] was angrily swinging a golf club in the home, striking a golf ball, which could have injured [C.S.] who was less than 3 feet away. [Father's] breath smelled of alcohol." "Police found the home to be very dirty" and saw "moldy, dirty dishes in the sink and garbage on the floor where the baby was crawling." Mother was referred to Pathways To Safety by the investigating social worker and the case was closed.

³ M.F. has a different father, whose whereabouts were unknown.

On March 29, 2011, the Department received a referral from law enforcement reporting that the mother, who was intoxicated, had been found “passed out and unresponsive in her apartment with her three children, who were then 3 months old, 2 years old and 5 years old.” Mother was referred by the investigating social worker “to Pathways To Safety for substance abuse services.”

On August 30, 2012, the Department responded to a domestic violence referral. “Mother smelled of alcohol during the social worker’s home visit.” Parents “admitted to the social worker that they had engaged in a domestic violence incident while both were under the influence of alcohol.” “The couple was in violation of a restraining order protecting the mother from father”

Mother agreed to allow the maternal grandmother care for the children while she moved out of the home and engaged in an outpatient drug treatment program. Mother began those voluntary services in September 2012 and participated in seven sessions but she had not attended the outpatient drug program since October 17, 2012.

On October 31, 2012, the Department received a referral reporting that mother was not complying with her voluntary services. Mother had “showed up drunk at the maternal grandmother’s home” on several occasions. On October 29, 2012, mother had taken “the children from the maternal grandmother’s home and left them with their maternal great-aunt.” The children were dirty and mother “did not leave supplies or clothes for them” with the great aunt. On October 31, mother picked the children up to take them trick or treating and, when mother returned the children to their great aunt the next day, “they were again filthy and had head lice.”

On November 1, 2012, the social worker spoke with a “Parents As Teacher” instructor who had been seeing the family since April 2011. “During the past month, [the instructor] smelled alcohol on mother’s breath during home visits” In addition, “[d]uring home visits, she observed tension between [the parents]” and she was aware of

“a series of ‘combative exchanges’ between the two.” Father had hit the wall and made threats.

C.S. and Z.S. had “significant developmental and language delays” but mother was “not regularly following up with services.” Dependency petitions were filed on behalf of the three children “due to the mother’s active use of alcohol, the neglect of the children, and the ongoing domestic violence between the parents.”

The proposed case plan was attached to the jurisdiction/disposition report. The plan set out mother’s responsibilities. It required that, among other things, mother “[p]articipate and regularly attend individual/family counseling as recommended by the therapist to address” specified issues. It also required her to attend and participate in at least four Narcotics Anonymous/Alcohol Anonymous (NA/AA) 12-Step meetings per week, or the number required by her treatment program, and to “[o]btain a 12-Step sponsor and develop a working relationship with that person, characterized by ‘working the steps’ and interacting socially at 12-Step meetings.”

The case plan provided for mother and father to have once-a-week visitation with the children. It further stated that “[t]he frequency and length of visitation will correspond to the parent’s progress, or lack of progress[,] and the needs of the child.”

At the uncontested jurisdiction and disposition hearing on December 19, 2012, the juvenile court declared C.S., M.F., and Z.S. to be dependent children of the court, ordered them removed from the physical custody of mother, committed them to the Department’s care, custody, and control for suitable placement, and ordered that family reunification services be provided to both parents. The court approved the case plan and ordered that “mother may have visitation with the child[ren] in accordance with the case plan.” It ordered that “[t]he time, place, and supervision for these visits shall be arranged by” the Department.

The status review report for the six-month review hearing indicated that C.S. had been placed in a concurrent foster home in San Jose, California and his two siblings were

in separate placements in Salinas, California. The social worker had difficulty maintaining contact with mother on a consistent basis. Mother had not responded to the social worker's efforts to contact her.

As to visitation, the report disclosed mother had continued to miss visits following a visit on approximately February 22, 2013 and, consequently, the visits were cancelled. During a "Team Decision Making" meeting on March 19, 2013, which mother attended, a visitation plan was established. But mother did not comply with the visitation plan so it was terminated. Meanwhile, C.S. had "become very attached to his care-provider." There had been no contact with mother until May 3, 2013.

The report further indicated that mother had enrolled in a Victory Outreach program and she was currently in a Victory Outreach residential facility in Soledad, California. The program was "not one that is referred to by Drug and Alcohol assessors"; Victory Outreach was "a Christian based organization" and its emphasis was religious. The social worker stated in the report that the program might not meet the Department's treatment standards. Mother had been sober for a week.

At the uncontested six-month review hearing on June 12, 2013, mother submitted on the Department's report. The juvenile court found that "[r]easonable services designed to help the parents overcome the problems which led to the child's initial removal and continued out-of-home care have been provided or offered to the parents." It further found that mother's "whereabouts" had been "unknown for most or all of the review period" and mother had "failed to participate regularly in court-ordered treatment programs" The court terminated family reunification services to father, continued family reunification services to mother, and ordered C.S. and his siblings to remain in the Department's care and custody. The court also ordered that "mother may have visitation with the child[ren] in accordance with the case plan."

The status review report for the 12-month review hearing indicated that C.S., then four years old, was still placed in the concurrent foster home in San Jose. C.S.'s "aggressive behaviors [had] significantly diminished."

Mother was in a residential treatment at Genesis House in Seaside, California, where she had "a full daily schedule." Mother was visiting with C.S.'s siblings every Friday. C.S. visited "two times per month because of his placement in San Jose, the complexity of school, and congested traffic during transport time." The social worker mentioned that extended visitation at Genesis House was being considered. C.S. had "a very strong bond" with his caregiver.

The report indicated that mother was attending a counseling session with an LCSW at Children's Behavior Health (CBH) once per week, seeing a therapist at the Seaside YWCA, and attending domestic violence classes at the YWCA. Mother was reportedly attending at least six NA/AA meetings per week and a Monterey support group for adult children of alcoholic parents once a week. Mother's counselor at Genesis House was concerned, however, that mother, who reported to the social worker that she was on step one, was not working together with her sponsor, was missing meetings, and not working on the steps. The counselor was also concerned that mother was missing many groups, which were an integral part of treatment. The social worker nevertheless stated in the report that mother was meeting the case plan requirements.

At the uncontested 12-month hearing on December 11, 2013, mother submitted on the Department's report. The juvenile court found that "[r]easonable services designed to help the parents overcome the problems which led to the children's initial removal and continued out-of-home care have been provided or offered to the mother." The court further found that mother had "participated regularly in court-ordered treatment programs, as set forth in the report of court social worker." The court continued C.S. and his siblings as dependent children of the court and ordered them to remain in the Department's care and custody. It continued family reunification services to mother and

ordered that “mother may have visitation with the children in accordance with the case plan.” It ordered that “[t]he time, place, and supervision for these visits shall be arranged by” the Department. The court set the matter for an 18-month review hearing.

The social worker filed a “Family Treatment and Progress Summary” from the CBH therapists, which was dated March 18, 2014 and reported mother’s progress, with the court. The report indicated that mother was visiting with her daughter weekly and visiting with C.S. and Z.S. twice a month. Mother’s visits with C.S. had not been consistent because he lived with his foster mother in San Jose and “the commute on Friday afternoon is not always easy.” It stated that C.S. had “developed a secure attachment with his foster mother and he [did] not enjoy his visits” with mother.

The Department’s report for the 18-month review hearing recommended that the court terminate family reunification services to mother and set the matter for a selection and implementation hearing. Regarding C.S.’s mental and emotional status, the report stated that his “aggressive behaviors [had] significantly diminished,” he appeared to be “in a good emotional state,” and he had “become very attached to his care provider.” It stated that C.S. “enjoys visits with his mother and siblings, but when the visit is over, he is ready to go back to his home.”

The report indicated that mother was working and she had housing in Salinas and was waiting for an opening at Pueblo Del Mar. Mother had been clean and sober since May 16, 2013 and she was attending at least six NA/AA meetings per week and a weekly support group for adult children of alcoholic parents. Mother reported that she had a sponsor and was on step one with her sponsor. She continued to attend domestic violence classes at the YMCA and had developed a written safety plan. Mother was also attending weekly counseling sessions at CBH.

The report further indicated that mother’s youngest child, Z.S., was with her on a court-ordered extended visit and she visited with M.F. and Z.S. every Friday. C.S., who was then five years old, visited only two times per month because of his placement in

San Jose. C.S.'s "preschool, the FFA [Foster Family Agency] social worker, and the caregiver ha[d] all reported that it takes approximately 4 days for C.S. to become regulated after the visits on Friday" and "[h]e tend[ed] to be extra-clingy with his caregiver, to the extent that the preschool staff has had to physically coax him out of his caregiver's arms on Monday mornings."

The report recognized that mother had "shown love for her children and the strong desire to reunite." It described mother as "a superstar" and stated that she had "followed her case plan to the 'T' and even beyond." The Department recognized "mother's hard work and progress" but indicated that mother had "not yet been able to prove to . . . [C.S. and M.F.] that she is able and willing to take care of them"

According to the report, C.S. and M.F. had been "deeply damaged by the mother's previous lifestyle choices" and it would "take years for them to . . . trust her as a caregiver again." It indicated that C.S. had displayed "negative reactions" when he was under the impression that he might reunify with mother. It stated that C.S. "becomes visibly fearful and begins to regress when he considers being separated from what he clearly feels is a safe place." "The Department [had] been unable to increase visitation beyond supervised visitation due to his acting out behaviors after visitation." C.S. was "significantly attached to his caregiver" Since "it appear[ed] to be in his best interest to allow him to be raised in an environment that nurtures him and makes him feel safe," "the Department recommend[ed] that services be terminated as to [C.S.], and that his matter be set for a Selection and Implementation Hearing."

The Department provided a number of documents to the court. The Department filed a "Placement Needs and Services Plan/Quarterly Report," which was provided by the foster family agency and dated June 1, 2014. It stated that mother and C.S. have face-to-face visits twice a month. It indicated that, although mother was allowed to call C.S. and had a telephone number, she did not call him. It reported that C.S. "clearly sees" his "foster/adoptive home" as his home and he has "a secure attachment and loving

bond to his foster mom” It disclosed that C.S. “still demonstrates great fears of being ‘left’ by foster mom” and “at times resists [his] foster mom leaving his sight, to the point of hysteria on several occasions” when being dropped off at preschool. While the report described C.S. as “thriving,” it stated that “there is still regular ‘evidence’ of his trauma history in his behaviors and emotional reactions.” It concluded: “His return to his biological family does not seem feasible at this time”

The Department also filed a “Mental Health Re-Assessment and Recommendations” report from CBH, which was prepared by a licensed psychologist and dated June 11, 2014. It indicated that C.S. “suffered significant in utero alcohol exposure, followed by inadequate parenting in a household permeated by alcoholism and domestic violence. The report found that “[m]aternal alcoholism, family violence, and abusive physical discipline had a profound effect on [C.S.’s] attachment with his biological mother.” It indicated that C.S. did not seek contact with mother or resist leaving mother after a visit. The report also stated that the “emotional indifference [C.S.] shows toward his biological mother is in stark contrast to his desperate demands for reassurance the foster mother will not abandon him.” It concluded that C.S. “will continue to struggle with neurological deficits” related to exposures in utero and during his first three years of life and advised that, “as social and cognitive demands of school increase through the grades, neurologically based problems not evident in preschool will likely emerge.”

At the 18-month status review hearing on June 17, 2014, mother submitted on the 18-month status review report. The court found that “[r]easonable services designed to help the parents overcome the problems which led to the child’s initial removal and continued out-of-home care have been provided or offered to the mother.” The court terminated mother’s family reunification services with respect to C.S. It ordered that “mother may have visitation with the child in accordance with case plan.” It set the matter for a section 366.26 hearing on October 14, 2014. The court adopted all findings

and issued all orders recommended in the Department's report. Paragraph No. 42 of those incorporated recommendations provided information on the necessity of seeking a writ to preserve any right to appeal the order setting the section 366.26 hearing.

The Department's 366.26 WIC Report, dated October 14, 2014, recommended that the court terminate the parental rights of C.S.'s mother and father and declare that adoption is the appropriate permanent plan. C.S. was in a concurrent foster placement and there was "a strong bond between the caregiver and the child." He had been in that placement since March 19, 2013. Mother was then living with her youngest child at Pueblo Del Mar, a drug treatment program, in Marina, California, where she would be allowed to remain for up to 18 months.

The report stated that C.S. still had "difficulty falling asleep at night because he [was] afraid to be left alone." The caregiver had observed that C.S. "tend[ed] to show more regression with his behaviors after each visit with his birth mother" and he was "more deregulated, defiant and withdrawn" after each visit. After visiting with mother, "it usually [took] up to a week for the caregiver to get [C.S.] back on track again." His post-visit behaviors were "also affecting his academic performance at school." The report indicated that supervised visits between mother and C.S. had been reduced to once a month following the termination of family reunifications services.

According to the section 366.26 report, C.S. "identified his foster mother as his 'mom' " and there was "a very strong bond between" them. C.S. was thriving in his placement. As the prospective adoptive mother, the foster mother was "open to the child having some contact with his birth mother if it is in the child's best interest and as long as she remains clean and sober." The social worker opined that "based on [C.S.'s] steady progress, it will be detrimental to remove him from his current foster placement."

At the section 366.26 hearing, which was ultimately held on December 16, 2014, mother's counsel informed the juvenile court that mother had decided not to contest and she submitted on the section 366.26 report. The court adopted the Department's

recommended findings and orders and expressly terminated parental rights with respect to C.S. Adoption was identified as C.S.'s permanent plan.

On February 4, 2015, mother filed a notice of appeal from the juvenile court's December 16, 2014 orders terminating parental rights and declaring adoption to be the permanent plan.

II

Discussion

A. Collateral Attack of Order Setting Section 366.26 Hearing

At the 18-month review hearing on June 17, 2014, the juvenile court failed to orally advise mother of the requirement of filing a writ petition to challenge its order setting the section 366.26 hearing. Citing *In re Cathina W.* (1998) 68 Cal.App.4th 716 (*Cathina W.*), mother asserts that she should be permitted to collaterally attack the juvenile court's June 17, 2014 order setting the section 366.26 hearing in this appeal because she was not properly advised of the writ requirement.

Section 366.26, subdivision (1)(1), states: "An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply: [¶] (A) A petition for extraordinary writ review was filed in a timely manner. [¶] (B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record. [¶] (C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits." "Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section." (§ 366.26, subd. (1)(2).)

Section 366.26, subdivision (1)(3), provides in pertinent part: "The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following: [¶] (A) A trial court, after issuance of an order directing a hearing pursuant to

this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. *This notice shall be made orally to a party if the party is present at the time of the making of the order* or by first-class mail by the clerk of the court to the last known address of *a party not present* at the time of the making of the order.” (Italics added.)

California rules of Court, rule 5.590(b),⁴ states: “When the court orders a hearing under Welfare and Institutions Code section 366.26, the court must advise all parties and, if present, the child’s parent, guardian, or adult relative, that if the party wishes to preserve any right to review on appeal of the order setting the hearing under Welfare and Institutions Code section 366.26, the party is required to seek an extraordinary writ by filing a *Notice of Intent to File Writ Petition and Request for Record* (California Rules of Court, Rule 8.450) (form JV-820) or other notice of intent to file a writ petition and request for record and a *Petition for Extraordinary Writ* (California Rules of Court, Rules 8.452, 8.456) (form JV-825) or other petition for extraordinary writ. [¶] (1) The advisement must be given orally to those present when the court orders the hearing under Welfare and Institutions Code section 366.26. [¶] (2) Within one day after the court orders the hearing under Welfare and Institutions Code section 366.26, the advisement must be sent by first-class mail by the clerk of the court to the last known address of any party who is not present when the court orders the hearing under Welfare and Institutions Code section 366.26. [¶] (3) The advisement must include the time for filing a notice of intent to file a writ petition. [¶] (4) *Copies of Petition for Extraordinary Writ* (California Rules of Court, Rules 8.452, 8.456) (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record* (California Rules of Court, Rule 8.450) (form JV-820)

⁴ All further references to rules are to the California Rules of Court.

must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.”

In *Cathina W.*, *supra*, 68 Cal.App.4th 716, the mother, on appeal from an order terminating her parental rights under section 366.26, collaterally attacked previous findings made by the juvenile court at the time it set the section 366.26 hearing. (*Cathina W.*, *supra*, at p. 718.) The mother had not attended the hearing at which the court made that order. (*Id.* at p. 722.) The clerk of the court had not, as required, sent the requisite advisement regarding the writ requirement to the last known address of the mother within one day after the court’s order setting the section 366.26 hearing. Instead, the clerk mailed “judicial council form ‘NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD, RULE 39.1B’ ” to the mother four days after the entry of the setting order.⁵ (*Cathina W.*, *supra*, at p. 723.) “In addition, the face of the notice contain[ed] the typed date ‘8-26-97’ in the space provided for insertion of the day on which the juvenile court calendared the section 366.26 hearing” and that “date was wrong by some four months” (*Ibid.*)

The appellate court in *Cathina W.* determined that the mother had shown good cause for her failure to comply with the writ requirement “because the juvenile court, through no fault of the mother, failed to discharge its duty to give her timely, correct notice, as required by [the then applicable court rule].” (*Cathina W.*, *supra*, 68 Cal.App.4th at p. 722.) On appeal, the mother maintained that she never received the notice and consequently was not aware of her right to seek review of the setting order by petition for extraordinary writ or the consequences of not doing so. (*Id.* at p. 723.) The appellate court found that “[n]othing in the record disputes [the mother’s] claim.” (*Ibid.*) The court held that appellate review of the juvenile court’s order setting the section 366.26 hearing on appeal from the court’s subsequent order terminating mother’s

⁵ See current rule 8.450 and Judicial Council Form JV-820.

parental rights (§ 366.26) was the appropriate relief under the circumstances.

(*Cathina W.*, *supra*, at pp. 722-724.)

The judicial remedy applied in *Cathina W.* seems particularly inappropriate in this case. At the 18-month review hearing at which the court set the section 366.26 hearing, mother was present with her counsel and submitted on the social worker's report. She did not argue or present evidence showing that reasonable services had not been provided or offered to her.

Unlike the situation in *Cathina W.*, mother was not absent from the review hearing at which the court set the section 366.26 hearing. Consequently, under the applicable rule, the clerk of the court had no obligation to mail an advisement of the writ requirement to mother.

In addition, although the mother was present when the court set the section 366.26 hearing, she apparently did not attempt to appeal the setting order. This appeal is from subsequent orders following the section 366.26 hearing. Thus, “we are not in the procedural posture to treat a timely appeal from an order setting a section 366.26 hearing as a cognizable appeal or as a writ petition. (Cf. *In re Merrick V.* (2004) 122 Cal.App.4th 235, 247-249 [appellate court reviewed mother's claims on appeal from setting order because court failed to orally provide her with notice of the writ requirement]; *Jennifer T. v. Superior Court* (2007) 159 Cal.App.4th 254, 260 (*Jennifer T.*) [where juvenile court failed to orally advise mother of her writ rights, appellate court construed purported appeal from order setting § 366.26 hearing as a standard petition for writ of mandate ‘without regard to the shortened period for writ review that would otherwise be applicable (Rules 8.450, 8.452.)’].)”⁶ (*In re A.H.* (2013) 218 Cal.App.4th 337, 350,

⁶ In *Jennifer T.*, *supra*, 159 Cal.App.4th at p. 260, the appellate court concluded that “[b]ecause the right to appeal is purely statutory, an appellate court cannot confer the right to appeal as a remedy for the juvenile court's failure to advise a party of the writ requirement. (§ 366.26, subd. (l) (3)(A).)”

fn. omitted; cf. *Maggie S. v. Superior Court* (2013) 220 Cal.App.4th 662, 671 [since juvenile court failed to orally advise the mother of the writ requirement, appellate court excused her lack of compliance with that requirement and construed her purported appeal as a petition for extraordinary writ].)

In this case, the 18-month review hearing took place on June 17, 2014 and, although mother was personally served with the notice of the section 366.26 hearing that same day and the section 366.26 hearing was not actually held until about six months later, mother who was represented by counsel took no legal steps in the interim to prevent the section 366.26 hearing from going forward.⁷ At the section 366.26 hearing, mother did not complain that she had not received or had not been offered reasonable family reunification services and, consequently, the juvenile court had erred in setting the section 366.26 hearing. Instead, mother through her counsel submitted on the section 366.26 report.

In addition, mother acknowledges on appeal that an incorporated attachment to the clerk's June 17, 2014 minute order "includes a written copy of the parents' writ and appeal rights."⁸ Although mother points out that the appellate record does not contain

⁷ On an exceptional showing of good cause, a reviewing court may extend any time period prescribed by rules 8.450-8.452. (Rule 8.450(d).)

⁸ The relevant paragraph was entitled "WRIT AND APPEAL RIGHTS" and referenced specific court rules. It stated: "If any party to this proceeding wishes to preserve any right to appeal the order setting the Selection and Implementation Hearing under Welfare & Institutions Code Sec. 366.26, the party must seek an extraordinary writ by filing a 'Notice of Intent to File Writ Petition and Request for Record,' which may be filed using juvenile court form JV-820 or an equivalent, and by thereafter filing a 'Writ Petition,' which may be filed using juvenile court form JV-825 or an equivalent. The 'Notice of Intent to File Writ Petition and Request for Record' must be filed with the clerk of this court no later than 7 days after the date the order is made setting the hearing under Sec. 366.26. The order is made when it is announced in open court, or if not so announced, when the written order is issued by the judge. Any party who wishes to appeal or file a writ should consult with their current attorney to ensure that the Notice of Intent and Writ Petition are filed in a timely manner. The period for filing a 'Notice of Intent to File a Writ Petition Request for Record' shall be extended 5 days, if the party

proof that the minute order and attachment were served on her, she does *not* assert, and it does not necessarily follow, that she did not receive a copy of those rights before the section 366.26 hearing or she was unaware of the legal requirement of filing a writ petition to challenge the order setting the section 366.26 hearing and the consequences of not seeking such writ relief.

In our view, the appellate record does not demonstrate that mother's failure to comply with the writ requirement should be excused for exceptional circumstances constituting good cause and her claim should be addressed on appeal from the section 366.26 orders.

B. Reasonableness of Family Reunification Services Provided or Offered

Even if mother's substantive claims were properly before us, we would reject them. Mother contends that the evidence at the 18-month review hearing does not support a finding that the family was provided reasonable services. She complains that "no effort was made to address the area of visitation in any meaningful way to help [C.S.] overcome his fear of [her] or strengthen his bond with her." She complains that, despite the case plan providing for weekly visitation,⁹ C.S. visited with her only twice a month due to the difficulties in transporting him from San Jose. Mother further asserts that "the family was not provided reasonable services tailored to [C.S.'s] needs in relation to visitation with [her], overcoming his prior fear of [her] and building a firm bond with her." Mother suggests that the Department made insufficient effort "to provide therapeutic visitation or conjoint therapy between [C.S.] and [her] or any other services aimed specifically at improving [C.S.'s] relationship with [her]" or helping C.S.

received notice of the order setting the hearing under Sec. 366.26 only by mail. Copies of Forms JV-820 and JV-825 may be obtained from the court clerk."

⁹ Although the case plan generally provided for weekly visitation with the children, it also provided that "[t]he frequency and length of visitation will correspond to the parent's progress, or lack of progress[,] and the needs of the child. Mother makes no claim that the juvenile court improperly delegated decision-making authority regarding visitation to the Department.

“work beyond his fears.” According to mother, the remedy for failing to provide reasonable reunification services is to continue reunification services beyond the 18-month review hearing.

At the 18-month review hearing, a juvenile court may not set a section 366.26 hearing unless it finds that reasonable services have been provided or offered to the parent. (§ 366.22, subds. (a) [“The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian”], (b) [“The court may not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian”]; Rule 5.708(m); but see *Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1504 [when a juvenile court proceeds under § 366.22, subd. (a), an order setting a § 366 hearing is not contingent on a reasonable services finding]; *Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594-595 [preponderance of the evidence standard applies to finding of reasonable services under § 366.22, subd. (a)].) An appellate court reviews a juvenile court’s reasonable services finding under the substantial evidence standard. (See *In re Alvin R.* (2003) 108 Cal.App.4th 962, 971; *Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762; see also *Crail v. Blakely* (1973) 8 Cal.3d 744, 750.)

“ ‘In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact.’ ” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) “Even if there is no substantial conflict in the evidence, we must nevertheless draw all legitimate inferences in support of the findings of the juvenile court. [Citation.]” (*In re Alvin R.*, *supra*, 108 Cal.App.4th at p. 971; see *In re I.J.* (2013) 56 Cal.4th 766, 773.)

“Visitation is an essential component of a reunification plan. (*In re Mark L.* (2001) 94 Cal.App.4th 573, 580.)” (*Tracy J. v. Superior Court* (2012) 202 Cal.App.4th 1415, 1426.) Visitation between a parent and a child during the reunification period must “be as frequent as possible, consistent with the well-being of the child.” (§ 361.2, subd. (a)(1)(A).) But the law mandates that “[n]o visitation order shall jeopardize the safety of the child.” (§ 362.1, subd. (a)(1)(B).)

In this case, mother failed to engage in services at the beginning of C.S.’s dependency case or comply with visitation. In March 2013, C.S. was placed in a concurrent foster home in San Jose. The social worker’s 12-month status review report indicated that C.S. was visiting mother twice a month due to the distance between his placement and mother’s location, “the complexity of school,” and “congested traffic during transport time.” The report noted that extended visitation at Genesis House, where mother was then in residential treatment, was being considered. Although the case plan generally provided for once-a-week visitation with the children, the record does not reflect that the lack of weekly visits between C.S. and his mother was due to some failure on the part of the Department. The location of the visits could not be modified since mother was in fulltime residential treatment. While C.S.’s foster mother was apparently able to take C.S. to mother, the logistics were difficult.

At the 18-month review hearing, there was no evidence that extended visitation at Genesis House or weekly visits with mother had been a viable option consistent with C.S.’s well being. To the contrary, the report for the 18-month review hearing indicated that visits with mother adversely impacted C.S.’s well-being and he took some days to recover from their visits.

In addition, there is no evidence in the record establishing that therapeutic visitation or psychotherapy for C.S. (individually or with mother) aimed at addressing his feelings regarding mother and attachment issues constituted appropriate or reasonable services under the circumstances. C.S. was very young; he turned five only after the

12-month review. The Department provided mother with assistance in complying with her case plan, which included services to address her mental health, substance abuse, domestic violence, and parenting issues.

“A social services agency is required to make a good faith effort to address the parent’s problems through services, to maintain reasonable contact with the parent during the course of the plan, and to make reasonable efforts to assist the parent in areas where compliance proves difficult. (*Armando L. v. Superior Court* (1995) 36 Cal.App.4th 549, 554-555.) However, in most cases more services might have been provided and the services provided are often imperfect. (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.) ‘The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.’ (*In re Misako R.* [(1991)] 2 Cal.App.4th [538,] 547.)” (*Katie V. v. Superior Court, supra*, 130 Cal.App.4th at pp. 598-599.)

Substantial evidence supports the juvenile court’s June 17, 2014 reasonable services finding.

DISPOSITION

The orders appealed from are affirmed.

ELIA, J.

WE CONCUR:

RUSHING, P. J.

WALSH, J.*